

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

BECKY L. LEACH,

Plaintiff,

v.

Case No. 12-CV-13150  
Honorable Denise Page Hood

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

---

**ORDER ADOPTING THE REPORT AND RECOMMENDATION,  
GRANTING IN PART PLAINTIFF'S MOTION FOR SUMMARY  
JUDGMENT, AND DENYING IN PART DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

This matter comes before the Court on Magistrate Judge Michael Hluchaniuk's Report and Recommendation. Plaintiff Becky L. Leach filed this action on July 18, 2012 asking this Court to review the Commissioner's final decision to deny social security benefits. The parties filed cross motions for summary judgment. The Magistrate Judge recommends that the Court deny in part the Commissioner's Motion for Summary Judgment, grant in part Plaintiff's Motion for Summary Judgment, and remand this matter back to the administrative level under sentence four. For the reasons stated below, the Court hereby ADOPTS the Report and Recommendation, GRANTS IN PART Plaintiff's Motion for Summary Judgment, DENIES IN PART

the Commissioner's Motion for Summary Judgment, REVERSES the findings of the Commissioner in part, and REMANDS this matter back to the administrative level under sentence four.

The Court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.* An objection to the Report and Recommendation must be timely and specific. *See* Fed. R. Civ. P. 72(b)(2); E.D. Mich. L. R. 72.1(d); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981) ("The filing of objections provides the district court with the opportunity to consider the specific contentions of the parties and to correct any errors immediately."). Pertaining to the Commissioner's decision, judicial review is limited to determining whether the Commissioner's findings of fact are supported by substantial evidence and whether the Commissioner used the proper legal criteria in reaching a conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). "Substantial evidence is more than a scintilla of evidence but less than a preponderance and is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Brainard v. Sec. of Health and Human Serv.*, 889 F.2d 679, 681 (6th Cir. 1989).

Finding no error in the Magistrate Judge's Report and Recommendation, the Court adopts the Report and Recommendation in its entirety. Furthermore, neither party has raised an objection to the Report and Recommendation. A party's failure to file any objections waives his or her right to further appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The Court finds that the parties have waived any further objections to the Report and Recommendation.

Accordingly,

IT IS ORDERED that the Report and Recommendation [Docket No. 16, filed June 11, 2013] is ADOPTED as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment [Docket No. 12, filed January 24, 2013] is GRANTED IN PART.

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss [Docket No. 14, filed March 27, 2013] is DENIED IN PART.

IT IS FURTHER ORDERED that the Commissioner's findings are REVERSED IN PART and this matter is REMANDED back to the administrative level under sentence four.

Dated: July 31, 2013

S/Denise Page Hood  
Denise Page Hood  
United States District Judge

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 31, 2013, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager